

August 9, 2010

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
AUGUST 9, 2010

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
FRANCIS BEDETTI, JR.  
PAT TORPEY  
JAMES DITTBRENNER  
RICHARD HAMEL

ALSO PRESENT: ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

NICOLE JULIAN  
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call to order the August 9, 2010  
meeting of the New Windsor Zoning Board of Appeals.

APPROVAL OF MINUTES DATED JULY 26, 2010

MR. KANE: Motion to accept the minutes of July 26,  
2010 as written?

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

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| MR. TORPEY | AYE |
| MR. HAMEL  | AYE |

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| MR. BEDETTI     | AYE |
| MR. DITTBRENNER | AYE |
| MR. KANE        | AYE |

PRELIMINARY\_MEETINGS:

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JALE\_DOKUZLAR\_(10-20)

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MR. KANE: Tonight's first preliminary meeting is Jale Dokuzlar. Come on up.

Mr. and Mrs. Dokuzlar appeared before the board for this proposal.

MR. KANE: What New Windsor does is we hold two meetings in New Windsor, we hold a preliminary meeting so we can get a general idea of what you want to do and make sure you have all the information that we need to make a decision. Some towns they don't do that, you walk in cold and it is what it is. So what will happen here right now will be about the same thing that happens in the public hearing. All our decisions have to be made in the public hearing and at that point, the public will get involved if they want to. Okay, state your name and address, speak loud enough for this young lady over there to hear you and tell us exactly what you want to do.

MRS. DOKUZLAR: My name is Jale Dokuzlar, this is my husband, Ostan (phonetic) Dokuzlar, we both own the house. Our house burned down at 37 Ona Lane and we need do rebuild. I think one of the variances that we applied for was the downstairs kitchen. I had a downstairs kitchen and with my family needs I need that, I always had that so I would like to have it. That's the reason. Also, we want to, in our culture, we take off our shoes when we get in and everything and my foyer it was so small that well five people are outside you have to take them one by one inside. So I wanted to extend the foyer a little bit so that people can take their shoes off there and that's all we want to do. I mean, the kitchen was there already, the foyer just want to have it little bigger so that we can take our shoes off.

MR. KANE: Well, so as far as the interpretation for the kitchen, you've had an existing kitchen, how long has that been down there approximately?

MRS. DOKUZLAR: When we bought the house, we bought it with it and we owned the house since 1989.

MR. KANE: Since 1989 and it was there existing before you?

MRS. DOKUZLAR: Right.

MR. KANE: And you have no intention, you have no intentions of making a rental apartment out of the downstairs?

MRS. DOKUZLAR: No, I had it and we never rented it out.

MR. KANE: We just need to get that on the record, that's basically why you're here.

MRS. DOKUZLAR: Sure.

MR. KANE: Also with the second kitchen, it's usually standard for us to go down this route that everything will be on one gas meter, one electric meter coming in the house.

MRS. DOKUZLAR: Yes, yes.

MR. KANE: Other questions about the kitchen at this point?

MR. BEDETTI: Was there ever a variance or an interpretation made before prior to the fire for the second kitchen?

MRS. DOKUZLAR: No, not anything that I know of. When

we got the house, the kitchen was there, it was at the time when we got the house it was a mother-daughter they called it and my parents used to live, that's why I got it like that because I had my parents, they passed away but it's always one gas meter, one whatever, like we never had--

MR. KANE: Our purpose is to really see, I grew up with them too, and it's to make sure that people are doing things legally and that they're not creating rentals in areas where there shouldn't be anything like that. So that's why we're really adamant with the one gas and one electric meter. Further questions on the kitchen?

MR. DITTBRENNER: Just a couple. You bought the house in '89?

MRS. DOKUZLAR: Yes.

MR. DITTBRENNER: And the house was built when?

MRS. DOKUZLAR: I'm not sure but last, the measurements of the land what was it called?

MR. DITTBRENNER: Survey.

MRS. DOKUZLAR: Survey was down in 1963 so I assume it was around that time.

MR. DITTBRENNER: And you acquired the property from your parents you said?

MRS. DOKUZLAR: No, we bought the property but my parents were living with us.

MR. DITTBRENNER: And it's never been used as a two family?

MRS. DOKUZLAR: No.

MR. DITTBRENNER: Okay.

MR. KANE: So that's it on the kitchen for right now, no questions. Variance as far as you explained you need I was wondering why you would need a variance for the front but you have two front yards also you're on a corner lot.

MRS. DOKUZLAR: People say that I talk too much, the survey that they had in '63 they built the house, now we were told that we have to get a new survey. We got it and according to the new survey as far as it was explained to me, we didn't have enough place to, you have to be certain away and our my house is right on the corner. So it's the road takes from both sides, okay, you have to be certain distance from the road. I don't know about the measurements, I was telling Nicole I'm very nervous about that, maybe next time I should bring my architect with us. But that's what I was told that I have to be certain distance from the road.

MR. KANE: That's every structure around. You'll need to have the exact measurements before we send the mailings out. Everything has to be exact.

MRS. DOKUZLAR: I think the plans that she submitted, Nicole, I have them here too, does it state them? I think, should I take mine out?

MR. TORPEY: They're the same as these?

MRS. DOKUZLAR: Yes.

MR. TORPEY: Like you said, she has two front yards really it's a corner lot.

MRS. DOKUZLAR: It's like corner so it's taking from both sides.

MR. KANE: It doesn't give basically if I'm reading

this correctly, it's 28 feet from the front of the house to the offset where it says 150, you see that 28 and that goes all way down to the front of the house and then the porch areas comes out 5 x 5 so that's going to leave 18 feet in the front. Am I doing that right?

MS. JULIAN: Says 17.03 which is what they'd need for a variance.

MR. TORPEY: It's really that little stick-out to put the shoes.

MRS. DOKUZLAR: Yeah.

MR. TORPEY: I can't argue there.

MR. KANE: In the building of the extended porch coming out of the front or the step area there's some questions that have to be asked even though they may not seem to make a lot of sense.

MR. DITTBRENNER: I just want to point out the current existing footprint the required is 45 feet but their currently existing footprint with the concrete entranceway is only 26.4 feet from the property line so they have a pre-existing--

MR. KANE: Condition, right, I think that's why.

MR. DITTBRENNER: It's a pre-existing.

MR. KANE: That's why I'm wondering why it even came up.

MR. DITTBRENNER: Really asking for a 9 foot.

MR. KANE: So we're basically just cleaning it up so everything is good on the record.

MR. DITTBRENNER: Exactly.

MR. KRIEGER: Here's the point, if it's treated as a pre-existing then the code talks about expansion of a pre-existing, non-conforming use. If they want more than that and I think they do, I don't, then they apply for a variance right from scratch which is exactly what they're doing.

MR. DITTBRENNER: I get that. I just want to make sure it's not a 17 foot, it's a clean-up on a pre-existing, that's an additional 9 foot.

MR. KANE: Right, and technically in the paperwork they still need 17 foot.

MR. DITTBRENNER: I get that.

MR. KANE: Okay, we're clear.

MR. TORPEY: Anymore questions?

MR. KANE: Cutting down any trees, substantial vegetation in the building of the concrete pad in the front?

MRS. DOKUZLAR: No.

MR. KANE: Will you be creating water hazards or runoffs in the building?

MRS. DOKUZLAR: No.

MR. KANE: There are some existing easements on your property but that's in the I guess call it the back of the house, there's a drainage easement but no easements going in the area where you intend to have the home?

MRS. DOKUZLAR: No.



MR. KANE: Further questions guys? I'll accept a motion.

MR. DITTBRENNER: Mr. Chairman, I would make a motion that we move forward the application of the Dokuzlars as it relates to an interpretation for a rebuild of an existing fire damaged house that contains an existing second kitchen in the basement level and also for a variance as relates to the front yard setback requiring 17.03 feet at 37 Ona Lane in an R-4 zone.

MR. TORPEY: I'll second that.

ROLL CALL

|                 |     |
|-----------------|-----|
| MR. TORPEY      | AYE |
| MR. HAMEL       | AYE |
| MR. BEDETTI     | AYE |
| MR. DITTBRENNER | AYE |
| MR. KANE        | AYE |

MR. KANE: So what's going to happen she'll give you all the information for the public hearing and what's going to happen at the public hearing is basically what happens right here now, same questions will be asked and if there are any questions from the public, if anybody chooses to show up and ask we'll address that at that time and make a decision then.

MRS. DOKUZLAR: Thank you so much everybody.

MR. KANE: Have a good evening.

PUBLIC HEARINGS:

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LOUIS & DORETTA LUPINACCI (10-19)  
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MR. KANE: Public hearing on Louis and Doretta Lupinacci a request for a variance for an existing lot that does not meet minimum lot width of 175 feet. A variance of 27.5 feet is requested at 309 Lake Road.

Mr. Louis Lupinacci appeared before the board for this proposal.

MR. KANE: Let me just address the board for one minute. At the preliminary hearing, we discussed a little bit about clearing up the frontage on both lots at the end to try to save it, actually that turned out to be impossible since the property at this point was subdivided and there are two separate entities. So they have to come before us two different times so that's just so you guys know what happened. Okay?

MR. TORPEY: Right now we're only doing one lot?

MR. KANE: One lot.

MR. LUPINACCI: That was a good suggestion, unfortunately.

MR. KANE: We tried. Go ahead, same as the preliminary, name, address.

MR. LUPINACCI: My name is Louis Lupinacci, 3 Valley Lane, Upper Saddle River, New Jersey 07458. As I explained at the preliminary hearing, this property was a five acre lot and back in 2-05 was subdivided and approved as two separate lots the way you see it on the drawing. This is a surveyor's drawing dated 2-05. The variance was obtained, it shows the frontage 147.50 feet and I applied, I was not told that the variance would expire within a year, therefore, I did not apply

for a building permit. I only found out recently about the one year rule. The subdivision was done by an engineering firm local and I have the drawings and these are the surveyor's drawings. So nothing has changed from 2-05 other than reapplying as I was told to do.

MR. KANE: On the possible house side, are there going to be any cutting down of trees or major vegetation?

MR. LUPINACCI: No major trees, vegetation.

MR. KANE: Creating water hazards or runoffs?

MR. LUPINACCI: Not at all, sir.

MR. KANE: Any easements running through the area?

MR. LUPINACCI: Not that I know of. There's nothing shown on the engineering drawings. I have the engineering drawings right here with me with the proposed location of future house.

MR. KANE: Questions, gentlemen?

MR. DITTBRENNER: Can you point out in the upper right-hand corner which lot this is?

MR. LUPINACCI: It's outlined in yellow.

MR. DITTBRENNER: In the key.

MR. LUPINACCI: Right here. This shows a site lot 98.

MR. DITTBRENNER: Thank you.

MR. KANE: Is the lot itself similar in size and nature to other lots that are in that neighborhood?

MR. LUPINACCI: They are exactly the same, two lots are

exactly the same, one is 2.3 acres, the other one is 2.6 acres but the frontage is the same.

MR. KANE: Other lots that are in your neighborhood approximately the same amount of space on them?

MR. LUPINACCI: They're similar.

MR. KANE: Have there been any complaints formally or informally about the lot sizes?

MR. LUPINACCI: Not that I know of.

MR. KANE: Further questions? At this point, I'll open it up to the public, ask if there's anybody here who wishes to speak on this.

MR. KUENNEKE: We have a question.

MR. KANE: Please stand up, state your name, address.

MR. KUENNEKE: My name is Frank Kuenneke, I'm representing my mom who's on 7 Vidi Drive, hers is actually that six acre lot in the center, yeah, the big oval.

MR. LUPINACCI: 97?

MR. KUENNEKE: Yes. The engineering work that was done is that proven that there's not going to be excessive runoff now that there's going to be two homes squeezed basically on one lot?

MR. KANE: This is for frontage, we don't have a home in front of us right now. This is basically to clear up the frontage so that they have the ability to build one in there. Later on at a certain point if they build a home and anything is out of the norm, then they would be back in front of us. If not, then they'll go in front of the planning board.

MR. KUENNEKE: That's not going to get subdivided any smaller than it is?

MR. KANE: I wouldn't think so, honestly can't see that happening.

MR. KUENNEKE: It's not going to become four lots?

MR. LUPINACCI: Impossible, in other words, just for your information if you wanted to come around and look at the engineering drawings, you can see there's two lots, you see there's two lots, they're not split again, they cannot be, here's the engineering firm.

MR. KUENNEKE: Obviously, they were approved once before.

MR. LUPINACCI: In 2-05.

MR. KANE: This isn't about the lots being split, that was done previous, this is just to get it in shape so they can build something on it. And for your question as to dividing it into four, I can't see it because if you look on the back end of that that's federal wetlands back there, not going to happen.

MR. LUPINACCI: Right here.

MR. KANE: Right, on both lots.

MR. KUENNEKE: Thank you.

MR. KANE: You're welcome. No further questions?

MS. JONZA: My name is Linda Jonza. My main concern is I heard mentioned something about the trees, how much trees are going to be coming down?

MR. KANE: We don't know, there's no home being built

right now. That's all in front of the planning board.

MS. JONZA: My husband and I, he's not present at the time, when it does come about the building, the trees being knocked down and the water runoff going to adjacent properties.

MR. KANE: Has nothing to do with us this evening.

MS. JONZA: We can't discuss that?

MR. KANE: There's nothing in front of us to discuss.

MS. JONZA: Not even with the sewage or anything?

MR. KANE: There's no home in front of us to discuss, this is just for the frontage on it.

MS. JONZA: With the frontage, my next question is asking for 47, no, 27 1/2 feet, no, how much frontage is he--

MR. KANE: They have 147.5 feet going across the front.

MS. JONZA: How much from one, how much feet distance property line for one property to the other?

MR. KANE: They have 147.5 feet is the width of the one property, 147.5 is the width of the other property.

MS. JONZA: But when he puts his house, we can't even discuss it?

MR. KANE: You're talking about maybes, I can't address that.

MS. JONZA: Okay.

MR. KANE: There's nothing here in front of us to address.

MR. LUPINACCI: I can show you that.

MR. KANE: He would have to in building of a home that would go to the building department basically or the planning board first then the building department and they have to meet all the requirements that any other normal home with setbacks that we have would have to meet and at that point, if there were questions about water percolation, all of that that may come up at that point.

MR. LUPINACCI: The setbacks are already shown to meet code.

MR. TORPEY: His permit just expired, he had this already.

MR. KANE: Let me show you, come on over here. Right in here you'll see that there's a dotted line right in here in the center of each thing, any home that's built on this property has to be built in that area, see where that proposed house is, even though there isn't a proposed but just for scale and outside you have this dotted line going around here, same over here and then you have proposed sanitary systems in the back, the home has to be located inside that little rectangle area. And then over here everything else basically meets their codes except for having street frontage right and that's where the 27.5 comes into effect. But any home that's built there has to meet all the requirements for the town and/or they'd be back in front of us and at that point you would know. Okay?

MS. JONZA: We're just talking about one lot?

MR. KANE: This lot with it here now cause that's the one that some action is happening on.

MS. JONZA: Is there another time for the second lot?

MR. KANE: Not right now, there's nothing here right now.

MS. JONZA: Thank you.

MR. KANE: But they would have to once again come in front of us if they decide to develop that second lot to get the frontage fixed and you'd get that notification.

MS. JONZA: Thank you.

MR. KANE: Is there anyone else in the public, anymore questions? We'll close the public portion of the meeting and ask Nicole how many mailings we had.

MS. JULIAN: On the 27th day of July, 2010, I mailed out 11 addressed envelopes with no written response.

MR. KANE: And we'll bring it back to the board for further questions.

MR. BEDETTI: Do you have the proposed, do you know where the driveway is going to be for that proposed lot?

MR. LUPINACCI: I'll show you the proposed septic system, I'm not sure that it shows, yeah, here is the proposed drive right at the edge of the property as this gentleman pointed out, here's the dotted area where the property, where the proposed house should go and proposed driveway for the next lot which is not in question now.

MR. BEDETTI: What do you have 10 feet between the edge of the driveway?

MR. LUPINACCI: Right.



MR. DITTBRENNER: I would point out for the record I wish they, the public had stayed for this, I mean, the reality is you have the federal wetlands in the back of the property, you've got over a 40 foot rise to the front of the property because this would remain untouched, the likelihood of runoff through that wetlands back to the Vidi Drive property that they're referencing is highly unlikely, you're not going to be able to strip the land because it's elevated where you're going to develop.

MR. LUPINACCI: The building, future building cannot touch that.

MR. DITTBRENNER: But you have a 40 foot rise to the elevation to where you're building even with the sanitation system here, you're going to block any type of runoff by clearing these trees, you can't touch that, I actually went over to the property and looked at it.

MR. LUPINACCI: So you're satisfied that it's a good site, it's a good building site?

MR. DITTBRENNER: I think so, if you weren't asking so much.

MR. LUPINACCI: I'm giving it away.

MR. KANE: Further questions? I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant the variance to Louis Lupinacci for a request for an existing lot that does not meet minimum lot width of 175 feet. The variance request is for 27.5 feet.

MR. DITTBRENNER: I'll second that.

ROLL CALL

|                 |     |
|-----------------|-----|
| MR. TORPEY      | AYE |
| MR. HAMEL       | AYE |
| MR. BEDETTI     | AYE |
| MR. DITTBRENNER | AYE |
| MR. KANE        | AYE |

MR. LUPINACCI: Could I ask a question? Should I follow up with the next lot now that things are moving?

MR. KANE: It's all up to you, I mean, if things are moving and you think that lot's going to move for you at this point, it would probably be good to get that taken care of and get it out of way because you never know when the opportunity pops up and how long it will last. So to me, it makes sense to get it cleaned up to take advantage of any opportunity that comes along.

MR. DITTBRENNER: Get the variance and keep it current.

MR. LUPINACCI: Yes, now that I know. Thank you very much.

FORMAL\_DECISIONS

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- 1) PLAY IT AGAIN SPORTS
- 2) DOLORES SCHIMENTI

MR. KANE: Formal decisions, we have two formal decisions.

MR. DITTBRENNER: I move that we approve all decisions in one vote for Play It Again Sports and Dolores Schimenti as presented on the agenda.

MR. BEDETTI: I'll second it.

ROLL CALL

|                 |     |
|-----------------|-----|
| MR. TORPEY      | AYE |
| MR. HAMEL       | AYE |
| MR. BEDETTI     | AYE |
| MR. DITTBRENNER | AYE |
| MR. KANE        | AYE |

MR. KANE: Motion to adjourn?

MR. HAMEL: So moved.

MR. TORPEY: Second it.

ROLL CALL

|                 |     |
|-----------------|-----|
| MR. TORPEY      | AYE |
| MR. HAMEL       | AYE |
| MR. BEDETTI     | AYE |
| MR. DITTBRENNER | AYE |

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MR. KANE

AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

